GEORGIA DEPARTMENT OF REVENUE
POLICY ON NULLA BONA

Under Georgia law, state tax executions that have been recorded are valid and enforceable for seven years from the recording date. Tax executions may be renewed by re-recording prior to the expiration of the seven year limitation. This is done with an entry of "nulla bona," which is the return made by a levying officer to the issuance of a state tax execution. Those executions that expire without re-recording are considered "statute barred," as further explained below.

The policy of the Georgia Department of Revenue, with limited exceptions, is to re-record all tax executions that are scheduled to expire. A list of tax executions that expire within a particular six month period are provided to the regional offices and to our Private Collections Group to determine which ones should be re-recorded. Those offices then determine the likelihood of whether a specific account can be collected. Unless an account is deemed uncollectible, the tax execution is re-recorded, extending the Department's legal authority to enforce the execution for another seven years.

The Department's regional offices have responsibility for all active trust fund liabilities (e.g. sales tax and withholding tax), which are always re-recorded, as well as for tax executions on individual income tax liabilities that have not yet been assigned to a collection agency. The Department's Private Collections Group retains all tax executions that the Department has unsuccessfully collected and that have been referred to private collection agencies; it also maintains files on all accounts that have been deemed uncollectible.

Examples of accounts that are considered uncollectible and therefore are not re-recorded include businesses that are inactive with no known assets; hardship cases such as decedents' estates with no known assets; taxpayers who are permanently disabled and cannot work; retirees with only limited retirement pay or social security income; and taxpayers who have endured catastrophic medical bills. Moreover, a regional office manager can also make a determination not to re-record an execution based on the cost effectiveness of incurring additional recording costs and the expense of maintaining older files.

A tax execution becomes statute barred if the execution's recording date is more than seven years old and it has not been re-recorded. Tax executions that are statute barred can no longer be enforced through any type of legal collection action, but the Department nonetheless collects thousands of dollars annually on tax executions that are statute barred. In a few cases, this is because some taxpayers wish to make voluntary payments, but in most cases it is because a lender insists that a statute barred tax execution be nonetheless marked cancelled before they will extend credit. When this is required, the Department accepts the face amount of the original lien but automatically abates all interest which accrued after that date.

Another exception to the nulla bona policy is an account that has received a discharge in bankruptcy. Under federal and state law, liens that attached to real property prior to a bankruptcy discharge often remain on the property, even though the underlying liability has been discharged. The Department cannot take any active collection action on those liens. However, the Department nevertheless requires some payment before a lien will be released upon request of the taxpayer or a lender on behalf of the taxpayer.